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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Carolina PCS Corporation

Serial No. 75/472,668

Ralph Bailey of Ralph Bailey, P.A. for Carolina PCS Corporation, Inc.

Caroline E. Wood, Trademark Examining Attorney, Law Office 110 (Chris A.F. Pedersen, Managing Attorney)

Before Cissel, Seeherman and Wendel, Administrative Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Carolina PCS Corporation, Inc. has appealed from the final refusal of the Trademark Examining Attorney to register CAROLINA PHONE COMPANY for "telecommunication services, namely, voice and data transmission for personal home and business uses and mobile by wireless digital technology."¹ Registration has been refused pursuant to

¹ Application Serial No. 75/472,668, filed April 23, 1998, asserting a bona fide intention to use the mark in commerce.

Section 2(e)(2) of the Trademark Act, 15 U.S.C. 1052(e)(2), on the ground that applicant's mark is primarily geographically descriptive of its identified services.

Applicant and the Examining Attorney have filed briefs. Applicant requested an oral argument, but later withdrew that request.

As the Board stated in **In re California Pizza Kitchen Inc.**, 10 USPQ2d 1704, 1705 (TTAB 1988):

Section 2(e)(2) provides that registration shall not be refused unless a mark is primarily geographically descriptive of the applicant's goods or, as made applicable by Section 3, its services. In order for registration to be properly refused on this basis, it is necessary to show that the mark sought to be registered is the name of a place known generally to the public, and that the public would make a goods/place association, i.e., believe that the goods for which the mark is sought to be registered originate in that place. Where there is no genuine issue that the geographical significance of a term is its primary significance and where the geographical place is neither obscure nor remote, a public association of the goods with the place may ordinarily be presumed from the fact that the applicant's own goods come from the geographical place named in the mark.
(citations omitted)

Turning to the first prong of the test, i.e., whether the primary significance of the mark is a generally known

geographic place, we note that the Examining Attorney has submitted a listing for "Carolina" taken from Merriam-Webster's Geographical Dictionary, 3d ed. © 1997, which states that Carolina was an early American colony whose charter, for various reasons, was "abrogated and separate royal governments ultimately estab. In North Carolina and South Carolina (qq.v.) 1729--hence, **the Carolinas.**" In addition, applicant itself has made of record a dictionary definition for "Carolina" which states "of or from the sate of No. Carolina or the state of So. Carolina." In view of the foregoing, we find that "Carolina" is a generally known geographic place. See also **In re Carolina Apparel**, 48 USPQ2d 1542 (TTAB 1998), in which CAROLINA APPARAEL was found to be primarily geographically descriptive for retail clothing store services.

Applicant acknowledges that "Carolina" has significance in relation to the states of North Carolina and of South Carolina, but points out that the dictionary contains listings for "Carolina" with other words. Although we note such listings as, for example, "carolina anemone" (a prairie herb); "carolina chickadee" (a chickadee of the southeastern U.S.); and "carolina pink" (a wild pink), these references do not obviate the geographic significance of CAROLINA in applicant's mark.

We recognize, of course, that applicant's mark is not CAROLINA per se, but CAROLINA PHONE COMPANY. However, the Examining Attorney has submitted several articles taken from the NEXIS data base which reference phone companies as providing telecommunications services. Therefore, the addition of the phrase PHONE COMPANY, which merely describes the kind of entity providing the service, does not detract from the primary geographic significance of the mark. See **In re Cambridge Digital Systems**, 1 USPQ2d 1659, 1662 (TTAB 1986) (CAMBRIDGE DIGITAL and design found primarily geographically descriptive for a computer system, despite the addition of the highly descriptive word digital and the design).

This brings us to the second prong of the test, namely, whether purchasers would make a services/place association. Although applicant's application is based on an intent to use the mark, applicant is located in North Carolina, and that is presumably the place in which the services would originate. The Examining Attorney has submitted a number of NEXIS articles which refer to North Carolina as the home of companies which provide telecommunications services and goods. See, for example:

North Carolina has become as well known
for the development of high-tech
products and telecommunications in its

Research Triangle Park as for the towels and fabrics that shaped its past.

"The Washington Post," March 28, 1999

For example, telecommunications company Ericsson Corp. in Research Triangle Park, N.C., plans to embed Jini technology in its cellular phone...

"Computerworld," July 27, 1998

...a portion of the North Carolina Information Highway in a project that officials say could transform Research Triangle Park into a global telecommunications powerhouse.

"Triangle Business Journal," February 24, 1995

North Carolina's densest concentration of technical companies lies in the Research Triangle Park area, home to the telecommunications industry...

"EDN," March 21, 1991

In view of the foregoing, we find that the Examining Attorney has established a services/place association between CAROLINA and telecommunications goods and services, such that consumers, upon seeing the mark CAROLINA PHONE COMPANY used in connection with the telecommunications services identified in applicant's application, would assume that the services emanate from the place named in the mark.

We note that applicant has argued that other registrations consisting of or containing the word CAROLINA have been registered. However, the registrations which

applicant refers to in its brief have not been properly made of record. When applicant made reference to them by listing three in its response to the first Office action and stating that 26 others were on the Register, the Examining Attorney, in her second and final Office action, advised applicant that to be made of record, copies of the registrations had to be submitted. Applicant could have done so as part of a request for reconsideration, but instead chose to merely list the three registrations again in its brief, and state that 26 other registrations existed as well. The Examining Attorney indicated in her brief that these registrations should not be considered, and because they were not properly made of record, we have not considered them. However we note the Examining Attorney's statement in her brief that the three registrations whose numbers were provided by applicant were all registered pursuant to Section 2(f). Therefore, even if these registrations had been properly made of record, they would not support applicant's position that its mark is not primarily geographically descriptive.

Ser. No. 75/472,668

Decision: The refusal of registration is affirmed.

R. F. Cissel

E. J. Seeherman

H. R. Wendel
Administrative Trademark Judges
Trademark Trial and Appeal Board